

REMARKS

Status of the Application:

- A. Claims 27-34 were pending in the present application.
- B. Claims 1-34 are now cancelled.
- C. New claims 35-41, added through the instant amendment, are now before the Examiner.

The Examiner rejects the claims on the following grounds:

- 1. The Examiner rejected claims 27-34 as being outside the scope of the alleged, putative, election made by the Applicants upon submission of the application as filed on December 31, 2003.

1. The Examiner's Rejection Is Moot

On July 18, 2005 the Applicants filed an Office Action wherein the claims as originally filed were canceled, without prejudice, and a new claim set was entered by amendment. This new claim set was, in part, directed to the inhibition of PDE1 and PDE3 in the tissues of a patient. Subsequently, the Examiner (in the Office Action mailed October 25, 2005) rejected these PDE inhibition claims as being outside the scope of the embodiments of the invention claimed in the application as originally filed on December 31, 2003.

The Applicants respectfully disagree. The claims filed on July 18, 2005 (e.g. 27-34) find direct support in the specification and are linked to the claims as originally filed. That is to say, the claims filed on July 18, 2005 were directed to methods reciting the therapeutic application of the very same compounds claimed in the application as originally filed. The Applicants submit, therefore, no undue burden would be placed on the Examiner in examining those method claims.

However, in order to further business interests and without acquiescing to the rejections set out by the Examiner, while reserving the right to prosecute the same (or similar) claims entered to date in the instant prosecution, the Applicants cancel claims 1-34 and introduce the

instant "new" claim set (e.g. claims 35-41). This new claim set is directed to formulations of monochloroflosequinan and the sulfone derivative of monochloroflosequinan. A description of each of the individual compounds set out in these claimed formulations, in addition to the formulation and administration of these compounds to patients, is found in application as filed.¹

The Applicants respectfully submit the examination of these formulations do not pose a search burden on the Examiner beyond the search already performed on the compounds set out in the claims as originally filed. Moreover, in view of the pending set of claims, the Applicants also submit the combined rejections set out in the Office Action mailed March 16, 2005 and October 25, 2005 are moot and that these same claims are in condition for allowance.

CONCLUSIONS

The Applicants invite the Examiner to call, collect, their representative should the Examiner believe a telephone interview would further the prosecution of this application..

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¹ Each of these compounds are described in the "Definitions" section beginning on page 10. Support for the formulation of these compounds for, in one embodiment, administration to a patient is found on page 17, lines 15 – 22.